

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

| | | |
|-------------------------|---|--------------------|
| IN RE: |) | CHAPTER 11 |
| |) | |
| TARACORP, INC., a/k/a |) | |
| EVANS METAL COMPANY, |) | |
| SEITZINGERS, IMACO, and |) | |
| TARACORP INDUSTRIES, |) | CASE NO. 82-04654A |
| |) | |
| Debtor. |) | |
| |) | |

ORDER

The Motion to Lift Stay and to Authorize Entering Into Consent Decree having been considered, it is hereby

ORDERED, the automatic stay as imposed by Section 362(a) of the Bankruptcy Code is hereby lifted for the sole purpose of permitting the People of the State of Illinois, ex rel. Illinois Environmental Protection Agency ("IEPA") to file the Complaint attached hereto as Exhibit "A", and to file the executed Consent Decree attached hereto as Exhibit "B" in the Circuit Court, Third Judicial District of Madison County, Illinois; and that Debtor may enter into the Consent Decree attached hereto as Exhibit "B".

ORDERED that this Order is entered without prejudice to the existing or future rights and position of the IEPA that the automatic stays of Section 362 do not apply to it and nothing in this Order or the foregoing Motion shall be deemed or construed to be an admission, acknowledgment or determination that the automatic stay applies to the IEPA.

This the _____ day of February, 1984.

HUGH W. ROBINSON, Judge
United States Bankruptcy Court
Northern District of Georgia

EPA Region 5 Records Ctr.



258685

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| TARACORP, INC., a/k/a |) | CASE NO. 82-04654A |
| EVANS METAL COMPANY, |) | |
| SEITZINGERS, IMACO, and |) | |
| TARACORP INDUSTRIES, |) | |
| |) | |
| Debtor. |) | |
| |) | |

MOTION TO LIFT STAY AND TO
AUTHORIZE ENTERING INTO
CONSENT DECREE

TARACORP, INC. ("Debtor") respectfully moves this Court pursuant to Rules 4001 and 9014 to lift the automatic stay provided by Bankruptcy Code § 362(a) and authorize the entering of a consent decree for the limited purposes set out as follows:

1.

On October 5, 1978, the United States Environmental Protection Agency ("EPA") promulgated the National Ambient Air Quality Standards ("NAAQS") for lead. Section 110(a)(1) of the Clean Air Act requires each state to submit a State Implementation Plan ("SIP") which provides for the attainment and maintenance of the primary and secondary NAAQS.

2.

On March 22, 1982, the EPA approved the Illinois Lead SIP in all areas of the State with the exception of the Granite City, Madison, Venice geographic areas in Madison County, Illinois.

3.

On September 30, 1983, the State of Illinois submitted a lead SIP Plan to EPA which proposed to assure attainment and maintenance of the NAAQS in the Granite City area. The Debtor's Granite City facility was identified by the Illinois Environmental Protection Agency ("IEPA") as a stationary source and a point source for emissions of lead. The IEPA's SIP for the Granite City area requires certain activities to be carried out by Debtor.

4.

On December 29, 1983, EPA published in the Federal Register notice that it was proposing to approve the Plan as meeting all applicable federal requirements except that the IEPA's SIP for the Granite City area was deficient in that it did not contain an enforceable mechanism to implement the control strategy and if an enforcement mechanism satisfactory to EPA is not incorporated, then the EPA will disapprove the IEPA's SIP.

5.

Debtor and the IEPA have had numerous conferences and exchanges of proposals with respect to the appropriate enforcement mechanism and have also had conferences and exchanges with EPA looking to the development of an enforcement mechanism satisfactory to EPA, IEPA and Debtor. Debtor believes that such an enforcement mechanism has now been negotiated among the parties.

6.

The enforcement mechanism that has been negotiated among the parties is for IEPA to file a complaint in the Circuit

of the Third Judicial District of Madison County, Illinois and for Debtor and IEPA to enter in a consent decree in such proceedings. Attached hereto as Exhibit "A" is the Complaint proposed to be filed in the Circuit Court of the Third Judicial District of Madison County, Illinois, and attached hereto as Exhibit "B" is the proposed Consent Decree negotiated by the parties to be filed in that proceeding. The Consent Decree has been executed by Debtor subject to approval by this Court.

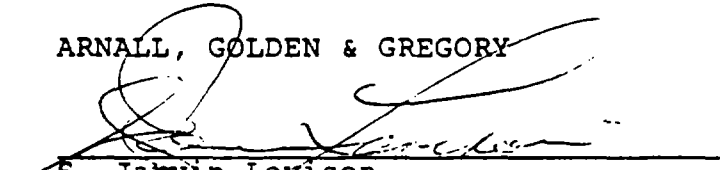
7.

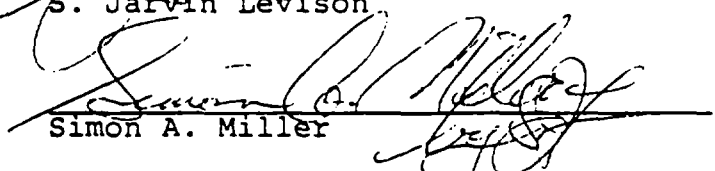
Certain of the obligations imposed on Debtor by the proposed Consent Decree are in the nature of "housekeeping" requirements in order to reduce the potential fugitive emissions escaping into the atmosphere and a number of these activities have been carried on by Debtor for quite some time. Most of the expenses relating to such activities are considered by Debtor as ordinary operating expenses. Other obligations imposed on Debtor in the proposed Consent Decree require the installation of additional emission control devices and some ongoing activities that might not be considered normal "housekeeping" responsibilities. Debtor's estimate at the present time of the total cost of these obligations to be phased in over a period of time through October 1, 1985, (approximately 19 months) will be \$325,000.00, a large portion of which relate to certain emission control devices for its Mixed Metals "B" and Powdered Lead Departments. The greatest portion of these costs are expected to be incurred between the spring and fall of 1985.

Debtor believes it will be in the interest of Debtor and its principal creditor groups if the automatic stay imposed by Section 362(a) of the Bankruptcy Code is lifted for the sole purpose of permitting the IEPA to file the Complaint attached hereto as Exhibit "A" and for the IEPA and Debtor to enter into the Consent Decree attached hereto as Exhibit "B" and filed with the Circuit Court, Third Judicial District, of Madison County, Illinois.

WHEREFORE the Debtor respectfully moves the Court to lift the automatic stay provided by Section 362(a) of the Bankruptcy Code for the sole purpose of enabling the IEPA to file the Complaint attached hereto as Exhibit "A"; to authorize Debtor to enter into the Consent Decree attached hereto as Exhibit "B".

ARNALL, GOLDEN & GREGORY


S. Jarvin Levison


Simon A. Miller

As Attorneys for Debtor

55 Park Place
Suite 400
Atlanta, GA 30335
(404) 577-5100

IN THE CIRCUIT COURT
FOR THE THIRD JUDICIAL CIRCUIT,
MADISON COUNTY

| | | |
|----------------------------------|---|--|
| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| -vs- |) | |
| |) | |
| TARACORP, INC., a Georgia |) | |
| corporation, |) | |
| |) | |
| Defendant. |) | |

CONSENT DECREE

The parties in the above-styled case, believing that litigation of the above-styled action would be neither in their best interests nor in the best interest of the public, have agreed to a settlement under the terms and conditions set forth below. The Consent Decree is made and agreed upon and submitted to the Court for the purposes of settlement only, upon the condition that the Court approve it in its entirety. The terms of this Decree shall be binding upon Taracorp, Inc., its assigns and all successors in interest with respect to its Granite City, Madison County, Illinois facility. In the event that the Court does not approve this Consent Decree in its entirety, it shall be null and void and of no effect in this or any other proceeding. In entering into this Consent Decree, Defendant is not admitting either its liability for the violations alleged in the Complaint nor any of the allegations of fact made in that Complaint. It is further agreed and understood by the parties that this Consent Decree shall be enforceable in each and every of its terms by further order of the Court, and to that end, the Circuit Court retains

jurisdiction of this matter in order to enforce each and every of the terms of this Consent Decree.

Subject to the foregoing understanding and agreements, the parties stipulate as follows:

I. JURISDICTION

The Complaint in the above-styled matter contains all the elements needed to state a claim with respect to Taracorp's Granite City facility upon which relief can be granted and the Circuit Court has jurisdiction of this matter. However, Defendant is not admitting either its liability for the violations alleged in the Complaint or any of the allegations of fact made in that Complaint.

II. FUGITIVE EMISSIONS CONTROLS

A. Defendant Taracorp, Inc. ["Taracorp"] agrees to perform or to have performed each and every of the following fugitive emissions controls:

1. By the date of entry of this Consent Decree, Taracorp will define all routes of vehicular traffic on its grounds, using painted lines, for the purpose of limiting traffic to the minimum of roadway necessary. Should such painted lines prove to be unsuccessful in limiting vehicular traffic to the defined areas, Defendant agrees to install physical barriers, such as posts, to define all such routes. Upon the completion of painting, Defendant agrees to submit to the Illinois Environmental Protection

Agency and to Plaintiff a map of its grounds with the defined vehicular traffic areas delineated.

2. No later than October 1, 1984, Taracorp shall apply on all defined roadways, parking lots and all other areas of possible vehicular traffic an A-2 asphaltic treatment, to be re-treated as needed to maintain an adequate surface. No Later than October 1, 1984, Taracorp shall provide a map delineating the areas to be provided the A-2 asphaltic treatment. Upon approval by IEPA, the map shall become part of this State Implementation Plan.

3. At a time appropriate for seeding in Spring, 1984, all non-traffic, unpaved areas on the plant grounds will be seeded and vegetated with a suitable cover crop. No later than October 1, 1984, Taracorp will treat open areas that cannot easily support vegetative cover with an asphaltic coating, renewed as necessary, to prevent fugitive emissions. Where asphaltic coating is impracticable, Taracorp shall use a dust suppressant beginning on or before May 1, 1984 and repeated thereafter as necessary in order to control fugitive emissions and in no event less often than specified in the dust suppressant manufacturer's instructions, unless a snow cover is present on the areas to be treated. Taracorop shall use, as a surfactant, either a petroleum resin base or an asphalt emulsion surfactant. Taracorp agrees to submit to the Agency a map of its grounds delineating areas to be treated pursuant to this Paragraph.

4. Clean all paved or treated areas with a vacuum sweeper at least once each week or anytime an accumulation of dust is observed. When operating the blast furnace, clean continuously, when weather permits, all regularly used truck traffic areas, and the areas around the battery saw house, dross storage building, blast furnace, and raw materials storage pile. A vacuum sweeper log will be maintained to record hours of operation and areas cleaned.

5. Taracorp shall remove accumulated mud from paved or treated areas using a small loader or hand shovel, as necessary. A wetting agent should be applied to all dry material before removal. Following wetting, the material shall be placed in containers for proper disposal.

6. All traffic entering or leaving the plant site shall use the main gate. Taracorp shall prohibit any vehicle used for on-site material handling from leaving its grounds unless such vehicle is properly cleaned by a wheel washing device prior to its departure.

7. Taracorp shall eliminate all vehicular traffic on the large lead waste pile located on Taracorp, Inc. grounds, except as is necessary to effect removal of the pile for recycling purposes, disposal or treatment and then in such manner as to minimize fugitive emissions.

8. By October 1, 1984, Taracorp shall fence all of its grounds not presently fenced with suitable fencing materials, so

as to reduce wind erosion and inhibit public access. If necessary, Taracorp will seek the cooperation of other property owners to extend the fence around the waste pile on the property of others, however, if such cooperation is not obtained, then Taracorp shall erect such fencing on top of the waste pile along its property line.

9. Beginning no later than the date of entry of the Consent Decree, contain in bags or other enclosed containers, all flue dust from the point of collection (cyclone, baghouse, etc.) to the skip hoist to be charged directly to the blast furnace. Storage of open flue dust in any building is prohibited including flue dust augered to dross storage area, except that Taracorp shall dispose of the flue dust presently stored in the dross storage area by April 1, 1984 in a manner satisfactory to the IEPA. All flue dust must be placed in sealed containers during transport and storage.

III. PROCESS EMISSIONS CONTROLS

Defendant Taracorp, Inc., agrees to perform or to have performed each of the following process emission controls:

1. In the event that Taracorp seeks to operate the blast furnace, Taracorp will, prior to the commencement of any such operation, apply for and receive an operating permit from IEPA, and will provide the following controls on the blast furnace:

- a. Construct hooding on skip hoist and charging areas to provide at least 90

percent capture and vent emissions to an appropriate control device capable of at least 99.8 percent control.

- b. Construct hooding for slag tapping to provide at least 95 percent capture and vent emissions to an appropriate control device capable of at least 99.8 percent control.
- c. Construct hooding for lead tapping and casting to provide at least 90 percent capture, and allow both the slag and lead molds to cool before they are removed from the hooding.
- d. Contain in enclosed bins or other containers, from the battery breaker to the skip hoist, all battery plates and sludge.

2. (a) No later than October 1, 1985, provide exhaust covers for all kettles in Mixed Metals B with exhaustion to a subsequent control device capable of at least 99.8 percent control; such equipment to have completed performance testing no later than December 31, 1985.

(b) The equipment described in paragraph III-2(A) above shall be installed in accordance with the following schedule:

Begin Engineering
Complete Engineering

August 21, 1984
January 31, 1985

| | |
|----------------------------|-----------------|
| Bids Received | March 31, 1985 |
| Placement of Order | April 30, 1985 |
| Completion of Construction | October 1, 1985 |

3. (a) No later than October 1, 1985, upgrade baghouse controls on Powdered Lead Department to achieve 99.9 percent control; such equipment to have completed performance testing no later than December 31, 1985.

(b) The equipment described in paragraph III-3(a) above shall be installed in accordance with the following schedule:

| | |
|----------------------------|------------------|
| Begin Engineering | August 31, 1984 |
| Complete Engineering | January 31, 1985 |
| Bids Received | March 31, 1985 |
| Placement of Order | April 30, 1985 |
| Completion of Construction | October 1, 1985 |

4. In the event Taracorp seeks to operate either the rotary furnace or batch mixer in Mixed Metals A or any other emission source not now permitted, Taracorp will, prior to the commencement of any such operation, apply for and receive appropriate operating permits from IEPA. Nothing in this Paragraph affects or changes any of the other requirements imposed in this Consent Decree.

5. The control devices referred to in Paragraphs 1(a), 1(b), 1(c), 2 and 3 will be designed and operated in accordance with the specifications of the applicable construction and operating permits granted by the IEPA.

IV. WASTE PILE CONTROLS

Defendant Taracorp, Inc. agrees to perform or to have performed the following waste pile controls: beginning on or before May 1, 1984, spray the slag/waste pile with a stabilizing material capable of attaining 75 percent control of the emissions from the pile; such spraying shall be repeated in accordance with the spray manufacturer's instructions and in any event no less often than is required to achieve 75 percent control of the emissions from the pile. The only vehicles which would be allowed on the pile would be ones involved in the removal of the waste. Taracorp shall use, as a surfactant, either a petroleum resin base or an asphalt emulsion surfactant.

V. TESTING AND TEST METHODS

1. Unless a date is otherwise specified in this Consent Decree, Taracorp shall conduct performance specification testing on all control devices in operation listed below in Paragraph V-2 for compliance with the provisions of this Consent Decree within six (6) months of the date of entry of this Consent Decree. Such testing shall be conducted in accordance with IEPA procedures and USEPA Reference Methods 1, 2, 5 and 12 and the equipment manufacturer's warranty procedures. Written notice of such testing shall be provided to IEPA thirty (30) days prior to any test and written copy of the testing protocol shall be provided five (5) days prior to any such test, all pursuant to the notification procedures set forth in Article VI below.

2. The control devices referred to in Paragraph V-1 above are applicable to:

- (a) blast furnace
- (b) blast furnace charging
- (c) blast furnace tapping
- (d) Dross Department
- (e) Mixed Metals B
- (f) Mixed Metals A-I
- (g) Mixed Metals A-II
- (h) Powdered Lead Department

With respect to control devices for (a), (b) and (c), the parties agree and acknowledge that no blast furnace operations are presently allowed or permitted and that nothing in this Section V modifies or otherwise affects the requirements of Paragraph III-1. With respect to control devices for (e) and (h) the parties agree and acknowledge that the schedules for testing controls on Mixed Metals B and schedules for testing controls are governed by Paragraphs III-2 and III-3, respectively, and not by this Paragraph V-2.

VI. GENERAL PROVISIONS

1. The parties agree and acknowledge that IEPA bears the burden of proving any violation of the provisions of this Consent Decree and that Taracorp bears the burden of proving any affirmative defenses to any violation of this Consent Decree. The parties agree that the burden of proof applicable to any party will be the standard of proof that such party would have if in lieu of this Consent Decree the parties had entered into a Consent Order in a matter pending before the Illinois Pollution Control Board and the IEPA were seeking to enforce in this Court the Consent Order of the Illinois Pollutin Control Board because of an alleged violation of such Consent Order. No challenge to the validity of this Consent Decree shall be made by Taracorp or its successors in any proceeding to enforce this Consent Decree or any of its terms on the basis of an issue of law or fact which could have been raised had Taracorp chosen to litigate the Complaint in this matter.

2. The parties acknowledge that the Complaint in this matter concerns only part of the outstanding disputes between them and this Consent Decree resolves only part of these outstanding disputes. Among other matters left unresolved by this Consent Order are (1) the pending claim of the State of Illinois before the bankruptcy court in Atlanta, Georgia in the matter of Taracorp, Inc., debtor (No. 82-04654A), (2) the adversary proceeding (No. 83-2063A) in the same bankruptcy court, (3) the entire matter relating to evaluation of the environmental problems arising out of the waste pile discussed above and the deposits of lead on soil on and off the grounds of the Taracorp plant in Granite City, Illinois, and the satisfactory resolution of those environmental problems, and (4) the pending permit denial appeal (No. 83-43) before the Illinois Pollution Control Board.

This Consent Decree in no way affects Taracorp's responsibility to comply hereafter with, nor the power of the United States or the State of Illinois to enforce, any state, federal or local statute or regulations.

3. Any notice or other communication required to be sent under any provision of this Consent Decree, or any other communication relating to the terms and provisions of this Consent Decree, shall be sent certified mail, return receipt to:

For IEPA:

Air Permit Manager
Division of Air Pollution Control
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

Regional Manager
Division of Air Pollution Control
Illinois Environmental Protection Agency
115A West Main Street
Collinsville, Illinois 62234

For Taracorp:

Mr. Louis J. Taratoot, President
Taracorp, Inc.
1401 West Paces Ferry Road, D-211
Atlanta, Georgia 30327

Mr. Stanton Sobel, Executive Vice-President
900 Ashby Street
Atlanta, Georgia 30318

S. Jarvin Levison, Esq.
Arnall, Golden & Gregory
55 Park Place
Atlanta, Georgia 30335

4. The parties acknowledge and agree that Taracorp shall provide IEPA reasonable access to all records and documents required under this Consent Decree or any other law, statute or regulation to be kept by Taracorp, subject to constitutional limitations.

5. The parties acknowledge and agree that Taracorp's agreement to this Consent Decree is made in anticipation of the approval of the Bankruptcy Court of this Consent Decree.

WHEREFORE, this Consent Decree is entered with agreement and concurrence of the parties hereto.

IT IS SO ORDERED.

Date

Defendant, Taracorp, Inc.

Judge of the Circuit Court

Plaintiff,
People of the State of Illinois

BY: _____

BY: _____
Neil F. Hartigan
Attorney General

Date: _____

Illinois Environmental
Protection Agency

BY: _____
Joseph Svoboda
Manager, Enforcement

Date: _____

BY: _____
Daniel Goodwin
Manager, Division of
Air Pollution Control

Date: _____